

BEFORE THE
CALIFORNIA HORSE RACING BOARD
STATE OF CALIFORNIA

In the Matter of the Appeal of the Board of
Stewards' Ruling, #64, Los Angeles Turf
Club, Inc., dated 02-23-01, Against:

NICHOLAS HINES, a trainer,

Appellant.

CHRB No. SAC 01-007

OAH No. L-2001030590

PROPOSED DECISION

This matter came on regularly for hearing before Roy W. Hewitt, Administrative Law Judge ("ALJ"), Office of Administrative Hearings, at Los Angeles, California on April 11, 2001.

Senior Special Investigator Christopher Loop represented respondent, the California Horse Racing Board.

Appellant, Nicholas Hines, personally appeared and represented himself.

At the hearing, the parties were afforded the opportunity to examine witnesses, introduce relevant exhibits, and for argument. Documentary evidence was received, the parties orally argued their respective positions, and the matter was then submitted.

FACTUAL FINDINGS

The ALJ makes the following Factual Findings:

1. On February 21, 2001, the Board of Stewards conducted a hearing addressing Complaint number 1SA0035 that had been filed by the California Horse Racing Board ("CHRB") against appellant. The complaint alleged that appellant violated CHRB Rule 1878 (failure to properly identify a horse)¹.

2. On March 1, 2001, the Board of Stewards issued Ruling #64. That ruling provided: "Trainer NICHOLAS JAMES HINES is hereby fined the sum of ONE THOUSAND DOLLARS (\$1,000.00) for violation of California Horse Racing Board Rule #1878 (Workouts -- failure to properly identify horse)."

¹ The CHRB Rules are embodied in California Code of Regulations, Title 4. The Rule numbers correspond with the section numbers of Title 4.

Appellant timely appealed the Board of Stewards' Ruling, #64, and the instant hearing on appeal ensued.

3. The ALJ has reviewed the exhibits, including the transcript of the proceedings from the February 21, 2001 hearing before the Board of Stewards and the Stewards' Findings of Fact, Determination of Issues, and Decision. A review of the exhibits reveals that the evidence produced at the February 21, 2001 hearing supports the Board of Stewards' Findings of Fact.

4. Appellant does not dispute the Board of Stewards finding that on Tuesday, January 23, 2001, he misidentified his horse, "Tizmania", as a horse named "Irmaman". Rather, appellant disagrees with the Stewards' Determination that: "the Respondent [Appellant herein] became angry because the horse he brought to the track received a recorded work; he gave the name of another horse; and when he realized that he needed a work for the race at Golden Gate Fields, he attempted to backtrack and now use the work to his advantage." Appellant presented evidence in the instant proceedings that instances of similar misidentifications are not unusual. Accordingly, appellant argues that he is being unjustly prosecuted.

Contrary to appellant's argument, the Findings of Fact by the Stewards does support their Determination. The Stewards found that "Respondent admitted that he saw this turn of events as an opportunity to re-claim the 'Irmaman' work and credit it to the proper horse, 'Tizmania.' This action cast doubt upon the propriety of the workout, and the Board of Stewards scratched 'Tizmania' from the race on January 26, 2001." As previously noted in Finding 3, herein, the Board of Stewards' Findings of Fact are supported by the evidence; accordingly, the Stewards' conclusion that appellant tried to use the misidentification to his advantage is a reasonable interpretation of the evidence and shall not be overturned on appeal.

LEGAL CONCLUSIONS

The Administrative Law Judge makes the following Legal Conclusions:

1. The record on appeal supports the Board of Stewards' conclusions and the resulting \$1,000.00 fine assessed against appellant.

2. Appellant was not, and is not, being unjustly prosecuted. Each case involving the misidentification of a horse turns on its own particular set of facts. Appellant's argument that he should be excused because others have not been prosecuted for violating Rule 1878 is akin to arguing that one should not have to pay a fine for running a red light because others who ran the light were not fined. Other cases of misidentification are not before this tribunal, appellant's case is. In appellant's case, sufficient evidence exists in the record to support the Board of

Stewards' Findings and Determinations. Those Findings and Determinations, in turn, support the magnitude of the fine.

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

The appeal is denied, and the Stewards' decision and order, Ruling #64, is upheld.

Dated: April _____, 2001.

ROY W. HEWITT
Administrative Law Judge
Office of Administrative Hearings